



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

In the matter of:

**M/S Prime Steel Industries Pvt Ltd, Village Bated, Baddi-Barotiwala Road, Baddi, District Solan
HP-174103**

-The Complainant

Vs

- 1. Executive Director (Personnel), HPSEB Ltd, Vidyut Bhawan, Shimla-171004**
- 2. Assistant Engineer, Electrical Sub-Division, HPSEB Ltd, Barotiwala, District Solan, HP-174103**
- 3. Sr Executive Engineer, Electrical Division, HPSEB Ltd, Baddi, District Solan, HP-173205**

-The Respondents

Case No. 44/2020, Registered on 23/10/2020

(Decided on 16/02/2021)

CORAM

Er. K.L.Gupta

HP Electricity Ombudsman

Counsel for:

The Complainant: Sh. Rakesh Bansal

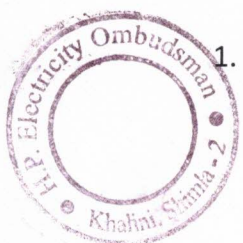
The Respondents: Sh. Anil Kumar God, Advocate

Order

The case was received and registered on 23/10/2020. In line with provisions under Regulation 34 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 to be returnable by 07/11/2020. The period was extended to 23/11/2020 on request from Respondent No.2. Since no communication was received by 23/11/2020, the case was listed for admission hearing on 11/01/2021. The Respondents were to file their reply by 28/12/2020 and the Complainant was to file his rejoinder by 08/01/2021. The reply was not filed date of hearing i.e. 11/01/2021 and was given another opportunity till 27/01/2021. The rejoinder was to be filed by 03/02/2021. Orders were reserved on 11/01/2021. The reply was received on 02/02/2021 and the rejoinder was received on 15/02/2021. Hence the delay.

A – Brief facts of the case:

- 1. M/S Prime Steel Industries Pvt Ltd, Village Bated, Baddi-Barotiwala Road, Baddi, District Solan HP-174103 has filed a Complaint through Sh. Megh Raj Garg, CEO (hereinafter referred to as 'The Complainant') under Regulation 28 (1) (c) of Himachal Pradesh Electricity**



Handwritten signature and date: 16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for compliance of the orders passed by the Consumer Grievance Redressal Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020. He has further prayed for reporting the matter to the Himachal Pradesh Electricity Regulatory Commission u/s 142 of Electricity Act, 2003 in case of non-compliance besides cost of litigation.

B – The Complainant's submissions:

1. The Complainant submitted that this representation is being filed in accordance with the HPERC (CGRF & Ombudsman) Regulations, 2013 as the Applicant/ Complainant is aggrieved by non-implementation of the orders dated 20/08/2020 passed by the Ld. Forum in the Complaint No. 1453/1/20/005 titled as Prime Steel Industries Pvt. Ltd. v. HPSEBL and others, whereby the Forum directed that

“ 7. In view of the observations and discussions made here in above, the present Complaint is decided in favour of the Complainant. The Respondent Board is directed to refund the demand charges paid by the Complainant Consumer during the period of 01/11/2019 to 18/11/2019 when the erratic power supply due to frequent tripping on 132 kV line due to faulty relay in HPSEBL Sub-Station is established from the above submissions and the log sheet placed on record of the M/s Prime Steel Pvt. Ltd. for the month of 01/11/2019 to 30/11/2019. The amount so calculated to be refunded by the Respondent Board by way of adjustment in the future energy/ electricity bills of the Consumer/ Complainant.”

2. The Complainant submitted that he is a large EHT Consumer getting supply at 132 kV voltage, with a Contract Demand of 12700 kVA obtained after purchase of the factory which was in the name of M/s Rama Steels Ltd. The power connection to the Complainant M/S Prime Steel Industries Private Limited was connected on 01/11/2019.
3. The Complainant submitted that the position of power supply remained highly erratic in the month of November 2019, which was repeatedly brought to the notice of the Respondents vide letters dated 06/11/2019 and 13/11/2019. There were frequent trippings in the system whenever the Complainant tried to put load resulting in huge loss to the Complainant due to wastage of material. No action was taken by the Respondents to remedy the situation.
4. The Complainant submitted that as a result he could not run his factory for most of time during the month of November, 2019. The same is evident from a very low consumption during the said month. Vide his Memo dated 11/11/2019, the Executive Engineer/ ES Division HPSEBL, Solan confirmed that there was some problem with the relay system at Barotiwala sub- station and advised his counterpart to take remedial measures. On 23/11/2019, observing no improvement in the power supply position the Complainant



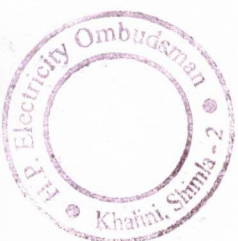
Handwritten signature and date: 16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

again wrote a letter to the Respondent that unless power supply can be improved no demand charges shall be paid by the Complainant as the Complainant was not able to use the Contract Demand. Thereafter the supply position improved in the beginning of December, 2019 as some corrective action may have been carried out by the Respondents since a shutdown was taken on the 132 kV dedicated line by the Respondents which probably could have been for carrying out repairs and maintenance.

5. The Complainant submitted that the Respondents issued the energy bill for the consumption of November 2019, in which the demand charges were charged on 11430 kVA i.e. 90% of the sanctioned Contract Demand of 12,700 per kVA, amounting to Rs. 48,57,750/-.
6. The Complainant submitted that he paid the bill, but approached the CGRF in the form of Complaint No. 1453/1/20/005, which was disposed vide final orders passed by the Forum on 20/08/2020 after going through the data of the sub-station, directing the Respondents to provide reasonable relief to the Complainant.
7. The Complainant submitted that he wrote a letter dated 27/08/2020 to the AEE, Barotiwala to implement the orders of the CGRF within the notified period of 21 days and also attached the calculations in the letter demanding a refund of Rs. 29,14,650/- alongwith interest as per Clause 5.7.3 of the Supply Code, 2009.
8. The Complainant submitted that he neither received refund, nor any communication from the Respondents. As the time period allowed for approaching the Ld. Ombudsman for non-implementation of the orders passed by the Forum came near the end, the Complainant was left with no other option than to approach the Hon'ble Ombudsman to redress his grievance of non-compliance.
9. The Complainant submitted that the time period of approximately two months has already passed but the Respondent has not implemented the orders dated 20/08/2020 passed by the CGRF in Complaint No. 1453/1/20/005. A time period of only 21 days is allowed for compliance in such matters under the Regulations, which clearly has expired. The Respondents have contravened the provisions of HPERC (CGRF and Ombudsman) Regulations, 2013 and is liable to be dealt under section 142 and 149 of the Electricity Act, 2003.
10. The Complainant submitted that he must be compensated for interest on the amount refundable to the Complainant as per Clause 5.7.3 of the Supply Code, 2003 from the date of actual payment of the disputed amount to the actual date of refund including the delay in implementation, failing which the action for non-compliance be initiated against the Respondents.



Heupt
16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

11. **Prayer:** The Complainant thus prayed that the representation may kindly be allowed and the directions be issued to the Respondents to comply with the orders passed by the Consumer Grievance Redressal Forum and further prayed that **a)** to direct the Respondents to comply with the orders passed by the CGRF in Complaint No. 1453/1/20/005 in true letter and spirit, directing them to refund a sum of Rs. 29,14,650/-, along with interest as per Clause 5.7.3 of the Supply Code, 2009 w.e.f. 24/12/2019, the due date of the bill in which the excess amount was charged and further prayed that the interest be ordered to be paid till the date of actual payment/ refund including the delay in implementation of the orders; and / or **b)** to report the matter of non-compliance to the Himachal Pradesh Electricity Regulatory Commission, recommending action u/s 142 and 149 of the Electricity Act, 2003; **c)** cost of Complaint to an extent of Rs. 50,000/-; **d)** call for the record of the case and **e)** any other or further orders which this Hon'ble Ombudsman may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant Company and against the Respondents/distribution licensees.

C – The Respondents' submissions:

1. The Respondents submitted that that Complainant has no cause of action and locus standi to file the present Complaint and same deserves dismissal. The Complainant has not approached this Hon'ble Forum with the clean hands and suppressed and concealed the material facts from this Hon'ble Forum as such Complaint is liable to be dismissed and that the Complainant is estopped to file the present Complaint by his own Acts, conduct and deeds. The Complaint of the Complainant is not maintainable and same is liable to be dismissed with special costs.
2. The Respondents submitted that M/s Prime Steel purchased the assets /property (including land, building, superstructure built upon and other installations erected thereupon of M/s Shri Rama Steel Ltd. which is prior Consumer of HPSEBL having account number LP-755 & permanently disconnected on dated 12/09/2013 due to default in making of payment from HPFC as per the agreement between M/s Prime Steel Pvt. Ltd. & HPFC. The Respondents further submitted that the Complainant Consumer M/s Prime Steel Pvt. Ltd. Vide letter dated 25/03/2019 approached the Respondent Board for release of power connection of load 19991.7 kW on the premises of M/s Shri Rama Steel. The Respondent Board vide letter No. 215 dated 12/04/2019 requested to Complainant Consumer M/s Prime steel Pvt. Ltd. to deposit outstanding amount of premises amounting to Rs. 6,40,10,439/-. The Complainant Consumer M/s Prime steel Pvt. Ltd. instead of depositing the outstanding amount, approached the Id. CGRF vide Complaint no. 1453/03/19/018. The Id. CGRF vide order in Complaint No. 1453/03/19/018 dated 23-10-2019 quashed & set aside the notice for Rs. 6,40,10,439/- & also directed to release supply of electricity connection to the M/s Prime Steel Pvt. Ltd. after completion of all codal formalities. Accordingly, the electricity supply to the M/s Prime Steel has been released vide SCO no. 0003606 dated 01/11/2019 in compliance to the Id. CGRF order dated 23/10/2019.



Accepted
16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

3. The Respondents further submitted that the Respondent Board served the bill to the Complainant Consumer according to the General Conditions of Tariff and schedule of Tariff for supply of electricity to various Consumers approved by the HPERC (Himachal Pradesh Electricity Regulatory commission), which is read as *Consumer under two (2) part tariff, whose energy consumption is billed/charged in Rs/KVAH, shall in addition to the KVAH charges, be also charged at the rates as per Part-III, the 'Demand Charges' (in Rs/KVA/month), calculated on the actual Maximum Demand (in KVA) recorded on the energy meter during any consecutive 30 minute block period of the month or at 90% of the contract demand (in KVA), whichever is higher but up to a ceiling of contract demand as currently applicable. The demand in excess of contract demand will be charged under clause "M" relating to contract demand violation charges (CDVC)".*
4. The Respondents submitted that the maximum demand of M/s Prime steel recorded on the energy meter was 9600 kVA (0.08 x 120000) on dated 23/11/2019 in the month of Nov 2019 & accordingly the demand charges charged in the energy bill of Consumer which are totally as per the tariff orders.
5. The Respondents submitted that the Complainant is an industrial Consumer and the power connection of the Complainant Consumer released on 132 kV supply voltage on dated 01/11/2019 with 19991.70 kW load & 12700 kVA Contract Demand.
6. The Respondents further submitted that the Complainant Consumer approach the Id. CGRF vide Complaint no. 1453/1/20/005 for redressal of dispute & the Id. CGRF vide order dated 20/08/2020 direct the Respondent Board to refund the demand charges paid by the Complainant Consumer during the period of 01/11/2019 to 18/11/2019, in compliance to the order of Id. CGRF the amount to Rs. 29,14,650/- has been refunded to the Consumer in energy bill for the month January 2021 after according approval from the competent authority.
7. The Respondents submitted that the maximum demand of M/s Prime steel recorded on the energy meter was 9600 kVA (0.08 x 120000) on dated 23/11/2019 in the month of Nov 2019 & accordingly the demand charges charged in the energy bill of Consumer which are totally as per the tariff orders.
8. The Respondents further submitted that the Complainant Consumer approach the Id. CGRF vide Complaint no. 1453/1/20/005 for redressal of dispute & the Id. CGRF vide order dated 20/08/2020 directed the Respondent Board to refund the demand charges paid by the Complainant Consumer during the period of 01/11/2019 to 18/11/2019, in compliance to the order of Id. CGRF the amount to Rs. 29,14,650/- has been refunded to the Consumer in energy bill for the month January 2021.



Leup to
16/02/2021



9. The Respondents thus prayed that the Complaint filed by the Complainant may kindly be dismissed with cost, in the interest of justice.

D – The Complainant additional submission through Rejoinder:

1. The Complainant repeated, reiterated and confirmed all the statements and averments made him in the Complaint and denied all the statements and averments made in the said reply unless and until the same are specifically admitted by the Complainant Company.
2. The Complainant submitted that he has sufficient cause of action and locus standi to file the present representation as the orders passed by CGRF had not been complied till the time of filing of this grievance in the month of October, 2020. The time limit for filing representation with the Electricity Ombudsman is one month from the date on order passed by the CGRF as per HPERC (CGRF and Electricity Ombudsman Regulations), 2013. The Complainant has rightly approached the Ld. Ombudsman by way of this representation, which is well within the rights of the Consumer.
3. The Complainant submitted that the Ld. CGRF has already decided the Complaint on the basis of merits and the present representation has only been made under regulations 28 (1) (c), which pertains to non-implementation of the orders of the Forum and hence the scope of this Complaint is restricted to the implementation of the orders passed by the CGRF.
4. The Complainant submitted that the Respondents have not replied as to what were the reasons of delayed implementation of the orders passed by the CGRF in Complaint number 1453/1/20/005. The Respondents have not even reacted or denied the contravention under section 142 and 149 of the Electricity Act, 2003. Although, the contravention in terms of delay in compliance is well established in the present case.
5. The Complainant submitted that the Respondents have not replied to or denied the contention of the Complainant as to why the Complainant must not be compensated for delay in refunding the amount eligible for refund, that stood overbilled to the Complainant. The standard rules have been set in Clause 5.7.3 of the Himachal Pradesh Electricity Supply Coe, 2009, which provide for interest in the cases where refund is due on account of billing to any Consumer. He further submitted that the regulation 26 (2) (a) (ii) that the refunds ordered by CGRF attract simple interest @ 15% per annum, which is an implied condition in any order passed by CGRF.
He then prayed to allow this Complaint and order relief as prayed in the representation as well as this rejoinder.



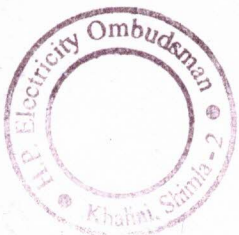
Heupt
16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

E – CGRF Order:

1. We have heard both the Parties and have gone through the case file carefully. After examination of complaint, it is observed that the fact of frequent tripping on the 132 KV line during the month of November, 2019 is established from the fact that the power supply position to the complainant remained erratic. The fact is corroborated further from the communication dated 11.11.2019 of the Assistant Executive Engineer, ES, 132 KV. Sub Division, HPSEBL, Barotiwala to The Sr. Executive Engineer, Protection & Testing Division, HPSEBL, Solan regarding tripping high set at the end of Respondent Board and sometimes at firm's end, when the firm switch on their power transformer. The fact is not denied by the Respondent Board that the complainant has brought these incidents of frequent tripping during the month of November, 2019, to the notice of the concerned authorities vide letter dated. 06.11.2019 & 13.11.2019.
2. The authorised representative of the Respondent Board was asked to produce the tripping data and the current supply during the month November, 2019. The said data was placed on record through the Sr. Executive Engineer, ES Division, HPSEBL, Nalagarh, today during the course of hearing. The examination of the said data clearly established that the tripping in supply to the consumer was recorded till 18.11.2019. Thereafter, the defect is stated to be removed at the end of Respondent Board and required supply of power as per demand was maintained after 19.11.2019 as recorded in the log sheet placed on record today.
3. The examination of facts on record clearly established that the complainant consumer was not liable to pay the Demand Charges during the period when the frequent tripping on 132 KV line has been recorded in the log sheet placed on record by the Respondent Board. The Demand Charges for 1.11.2019 to 18.11.2019 are not justified to be recovered from the complainant consumer in view of the established facts that the power supply position to the complainant remained highly erratic in the month of November 2019 and as per the details of the log sheet. Thus, the consumer required to be compensated for the above said period by way of refund of Demand Charges by Respondent Board as per extant Regulations on the matter.
4. In view of the observations and discussions made here in above, the present complaint is decided in favour of the Complainant. The Respondent Board is directed to refund the demand charges paid by the complainant consumer during the period of 01.11.2019 to 18.11.2019 when the erratic power supply due to frequent tripping on 132 KV line due to faulty relay in HPSEBL Sub-Station is established from the above submissions and the log sheet placed on record of the M/s Prime Steel Pvt. Ltd. for the month of 01.11.2019 to 30.11.2019. The amount so calculated to be refunded by the Respondent Board by way of adjustment in the future energy/electricity bills of the consumer/complainant.





F – Analysis of the Complainant:

1. The case file at Consumer Grievance Redressal Forum has also been requisitioned and gone through.
2. Based on the above submissions by both the parties, it is clear that the case has been filed by the Complainant under Regulation 28 (1) (c) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for non-implementation of the orders passed by the Consumer Grievance Redressal Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020.
3. In his submissions, the Complainant has submitted that till the date of filing the case at HP Electricity Ombudsman, the Respondents had not complied with the orders of the Forum.
4. The Respondents have also replied on the merits of the case filed at the Forum which is not the subject matter of adjudication. The Respondents have although submitted that they have refunded an amount of Rs 29,14,650/- through Sundry Credit given in the energy bill issued on 08/01/2021 and also attached a copy of the energy bill for December 2020.
5. The Respondents have not complied with the orders of the Forum within the time frame specified in the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 i.e. 21 days and instead they have complied with the orders of the Forum after the filing of the case at HP Electricity Ombudsman and before filing their reply on dated 02/02/2021.
6. The Respondents have not refunded any interest as demanded by the Complainant since the Forum had not specifically mentioned about the interest to be paid in case of delay in refund. Further, they have also not specifically replied to the Complainant's prayer for refund with interest.
7. The Complainant contention is that although the interest on refund has specifically not been mention but it is implied as per provisions under Regulation 26 (2) (a) (ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The said provision states:

"If, after the completion of the proceedings, the Forum is satisfied that the allegations contained in the grievance are correct, it shall –

- (a) *issue an order to the distribution licensee directing it to do one or more of the following things in a time-bound manner, namely:-*



Heupte
16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

(i) to remove the cause of grievance in question;

(ii) to return to the complainant the undue charges paid by the complainant along with the simple interest at the rate of 15 percent per annum, or at such rate as may be fixed by the Commission, for the actual number of days for which the undue disputed amount was withheld by the licensee; or”;

8. Plain reading of the said provisions states that the Forum shall **issue an order** to return to the complainant the undue charges paid by the complainant **along with the simple interest** at the rate of 15 percent per annum, or at such rate as may be fixed by the Commission, for the actual number of days for which the undue disputed amount was withheld by the licensee
9. Since the Forum have not ordered any interest and the Complainant had filed his representation under Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the HP Electricity Ombudsman can't modify the orders of the Forum on its own and have to act within the provisions of Regulation 28 (1) (c) only.
10. Since the Complainant had not sought any modification of the orders passed by the Forum, there is no need to go beyond the provisions under Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. However, the Complainant have option to go for review of the orders passed by the Forum under Regulation 26 (7) and demand the interest part since the Respondents have not complied his orders within the time frame specified by them.

G – Issues in question:

1. **Issue No. 1:** Whether the Respondents have complied with the orders passed by the Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020?
2. **Issue No. 2:** Whether there is any need to modify the orders passed by the Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020 to allow interest as demanded by the Complainant?



Accepted
16/02/2021



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

H – Findings on the Issues:

Issue No.1:

1. As is evident from the analysis done above and the submissions made by the Respondents vide their reply dated 02/02/2021, the Respondents have complied with the orders of the Forum passed on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020.
2. However, the Respondents have issued the refund after 21 days of the orders passed by the Forum through Sundry Credit posted in energy bill issued on 08/01/2021 for December 2020.

Issue No.2:

1. As is evident from the analysis done above, since the Complainant have filed his representation under provisions of Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, there is no need to go beyond the provisions of the said regulation and modify the orders passed by the Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020.
2. However, the Complainant have option to file a review at Consumer Grievance Redressal Forum under provisions of Regulation 26 (7) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for claiming interest on delayed refund.

I – Order:

1. The orders passed by the Consumer Grievance Redressal Forum on dated 20/08/2020 in Complaint No. 1453/1/20/005, dated 18/03/2020 have already been complied with by the Respondents although not within the timeframe specified in the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
2. The Complaint filed by M/S Prime Steel Industries Pvt Ltd, Village Bated, Baddi-Barotiwala Road, Baddi, District Solan HP-174103 is hereby disposed off.
3. No cost to litigation.

Given under my hand and Seal of the Office.



Leapt
16/02/2021
Electricity Ombudsman